

# **Exhibit 3**

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1 Q So Rightscorp is being remunerated on a  
2 fixed basis for the services it's providing in  
3 conjunction with this lawsuit?

4 MR. O'BEIRNE: Objection. Vague as to  
5 fixed.

6 And caution you not to reveal privileged  
7 communications. But the financial arrangement  
8 facts, you can discuss.

9 THE WITNESS: Correct.

10 BY MR. BROPHY:

11 Q I have seen documents that reflect payments  
12 made by RIAA to Rightscorp similarly in conjunction  
13 with this litigation. Those payments are paid over  
14 time, month to month.

15 Is it your understanding that that's the  
16 way in which Rightscorp is being paid by RIAA for  
17 the services in this case?

18 MR. O'BEIRNE: Same cautions, but you can  
19 answer.

20 THE WITNESS: Could you repeat?

21 BY MR. BROPHY:

22 Q Sure.

23 A I lost you somehow.

24 Q Sure. I have seen what I believe to be --  
25 and we can pull them out -- records of payments made

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1 by RIAA to Rightscorp. Which I understand to be in  
2 conjunction with the services provided by Rightscorp  
3 in this case.

4 Is it your understanding that Rightscorp is  
5 being paid by RIAA monthly or somehow over time for  
6 the services it provides in conjunction with this  
7 litigation?

8 MR. O'BEIRNE: Same cautions but you can  
9 answer.

10 THE WITNESS: That's one way, yes.

11 BY MR. BROPHY:

12 Q What is the other way?

13 MR. O'BEIRNE: Same cautions.

14 THE WITNESS: Lump sum.

15 BY MR. BROPHY:

16 Q Was there some lump sum at the beginning  
17 and some payments over time? Is that the way it's  
18 structured?

19 MR. O'BEIRNE: Same cautions.

20 THE WITNESS: Two lump sums at the  
21 beginning, and then payments over time.

22 BY MR. BROPHY:

23 Q Do you recall the amounts of those lump  
24 sums?

25 MR. O'BEIRNE: Same cautions, but you can

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1 answer.

2 THE WITNESS: Yes.

3 BY MR. BROPHY:

4 Q What were they?

5 A \$100,000 on signing, \$200,000 a month  
6 later -- I believe a month later. And then monthly  
7 thereafter.

8 Q And how much per month thereafter?

9 A I'm not 100 percent sure of the exact  
10 amount. I believe it was \$22,222 and change.

11 Q And is there some total amount that's --  
12 that was agreed upon that RIAA would pay Rightscorp  
13 over the life of its work on this case?

14 A Yes.

15 Q What's that amount?

16 A 400,000 over time.

17 Q Is that the largest amount that Rightscorp  
18 is being paid for any one engagement with -- or in  
19 conjunction with a litigation support role?

20 A Yes.

21 Q And that's \$400,000 regardless of work done  
22 or anything like that it's just a fixed \$400,000  
23 payment?

24 A Correct. That's for the data and services  
25 provided short of trial work.

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1 Q And so is Rightscorp also going to be paid  
2 hourly for trial work?

3 A Correct.

4 Q Are there certain individuals who are  
5 identified as those who will be paid hourly at  
6 trial?

7 A Yes.

8 Q Who are those people?

9 A Myself, Robert Steele, Greg Boswell.

10 Q What are the what are the hourly rates that  
11 each of you are going to charge for your work at  
12 trial?

13 A I believe I am -- around \$500 an hour, and  
14 Greg and Robert is 350.

15 Q Is that the standard amount that each of  
16 you charges for trial work?

17 A Yes.

18 Q Did you charge those rates to BMG in  
19 conjunction with the BMG Cox litigation?

20 A No.

21 Q Did you charge anything to BMG for your  
22 work in that case?

23 A No.

24 Q I'd like to switch gears and talk a little  
25 bit more about Rightscorp's interactions with ISPs.

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1           Has there ever been an relationship or a  
2 contract that exists between RIAA -- excuse me --  
3 Rightscorp -- reset. After lunch.

4           Has ever been a contractual relationship  
5 between Rightscorp and any plaintiff in this case?

6       A    No.

7       Q    So is it fair to say for me to say that no  
8 plaintiff has approached Rightscorp and asked  
9 Rightscorp to monitor any of the copyright  
10 properties that it owns?

11      A    Can you rephrase that?

12      Q    Is it fair for me to assume that because  
13 there is no contractual relationship between  
14 Rightscorp and any plaintiff in this case that no  
15 plaintiff has ever asked Rightscorp to send notices  
16 on its behalf?

17      A    Correct.

18      Q    I understand that Rightscorp has provided  
19 certain data to RIAA in relation to this case; is  
20 that correct?

21      A    Correct.

22      Q    That data existed before there was ever in  
23 any relationship between RIAA and Rightscorp;  
24 correct?

25      A    Correct.

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1 Q And that data was not gathered at RIAA's  
2 request; correct?

3 A Correct.

4 Q And it was not gathered in the plaintiff in  
5 this case's request; is that correct?

6 A Correct.

7 Q I'd like to talk about a situation. Let's  
8 say that Rightscorp is operating and scanning the  
9 Internet for activity that it believes represents an  
10 infringement -- it identifies that activity, it  
11 sends out a notice to Grande and says hey, send your  
12 standard notice, which identifies the IP address of  
13 the subscriber, the work that was infringed, so on  
14 and so forth.

15 What facilities because Grande have at its  
16 disposal according to Rightscorp to verify the  
17 accuracy or correctness of that notice?

18 MR. O'BEIRNE: Objection. Outside the  
19 scope. Calls for speculation. Vague.

20 THE WITNESS: I'm not sure what Grande has  
21 internal.

22 BY MR. BROPHY:

23 Q Are you aware of any way in which Grande  
24 can determine whether your notice is correct or not?

25 A I can't speak for Grande, but I know that

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1 ISRC numbers on the master side. Copyright numbers  
2 on the copyright side. Internal numbers for the  
3 company, the company might identify it as saying  
4 Acme music composition blah, blah, blah, and we can  
5 build our database. So some clients have more data  
6 than others. It just depends. It really does  
7 depend. Some clients, because they have multiple  
8 arms of the company, we might have different data  
9 for each arm the way they gave it to us.

10 Q So a second ago -- thank you for that.

11 A second ago, I asked for what the bare  
12 minimum is. Do you know what the bare minimum  
13 information is that Rightscorp requires in order to  
14 start monitoring?

15 A I would say the name of the song and author  
16 or rights holder, holder or holders, and name of the  
17 song and performer on a master. That's a smaller  
18 set than.

19 Q My understanding is that many of the  
20 copyrights that Rightscorp monitored, especially  
21 earlier in time were BMG copyrights. Is that fair  
22 to say?

23 MR. O'BEIRNE: Objection. Vague.

24 THE WITNESS: Early in time, yes, but  
25 eventually it expanded. But they were a big client

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1 And vague as to time and confusing and calls for  
2 speculation.

3 THE WITNESS: Right. We always invited  
4 people to call the notice invited people to call.  
5 So that's -- that was always on the table.

6 You have to ask Greg why it wasn't designed  
7 that way. But -- yeah.

8 BY MR. BROPHY:

9 Q Was the system designed to cause people to  
10 come and pay a single settlement to get their  
11 personal information so that Rightscorp could then  
12 go back to them and demand more money based on the  
13 remaining infringements or alleged infringements for  
14 which Rightscorp believed they were liable?

15 MR. O'BEIRNE: Objection. Vague.

16 Misstates testimony. Argumentative. And outside  
17 the scope.

18 THE WITNESS: No.

19 BY MR. BROPHY:

20 Q Does Rightscorp have the ability to  
21 increase or decrease the number of notices it sends  
22 in a given week to a given IP address based on the  
23 sharing of a given file?

24 MR. O'BEIRNE: Objection. Outside the  
25 scope of the topics. Calls for speculation.

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1                   THE WITNESS: Right, you're going to have  
2 to rephrase that. I think I know what you mean.  
3 But I'm not sure.

4 BY MR. BROPHY:

5                   Q      Sure.

6                   So let's assume a subscriber has a song  
7 sitting on his or her hard drive and bit Torrent  
8 client is running and the bit Torrent is therefore  
9 making that file available. And Rightscorp detects  
10 that throughout -- let's say the file remains in  
11 that situation with bit Torrent client running,  
12 computer connection to the Internet. Let's say it  
13 stays that way for two weeks. Somebody turns it on  
14 and goes away on vacation.

15                  Does Rightscorp have the ability to control  
16 how many notices it sends to that subscriber based  
17 on the scenario I just described?

18                  MR. O'BEIRNE: Objection. Calls for  
19 hypothetical. Incomplete hypothetical. Outside the  
20 scope. Lack of foundation. Calls for speculation.

21                  THE WITNESS: In the grand scheme --  
22 (Telephonic interruption.)

23                  THE WITNESS: In the grand scheme, yes.  
24 But not -- on a macro level, yes. On a micro level.  
25 We wouldn't say on that particular IP address, we're

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1 going to send a punch of notices, but it is a  
2 business variable that we can tell our system how  
3 many notices to generate or I wouldn't say how many  
4 notices to generate. How many infringements to  
5 detect on a particular IP address.

6 BY MR. BROPHY:

7 Q So Rightscorp has the ability to adjust one  
8 of its business variables and either send out a  
9 single notice based on that two weeks of behavior or  
10 20 notices based on that two weeks of behavior; is  
11 that right?

12 MR. O'BEIRNE: Objection. Calls for  
13 hypothetical. I think you introduced different  
14 facts than the previous hypothetical. Outside the  
15 scope. Calls for speculation.

16 THE WITNESS: In the scenario you just gave  
17 me, yes, that's possible.

18 BY MR. BROPHY:

19 Q And the subscribers's behavior didn't  
20 change, but Rightscorp can change the number of  
21 notices it sends based on that behavior?

22 MR. O'BEIRNE: Same objections.

23 BY MR. BROPHY:

24 Q Is that correct?

25 MR. O'BEIRNE: And calls for a legal

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1 conclusion.

2 THE WITNESS: The system could, but we  
3 don't.

4 BY MR. BROPHY:

5 Q Rightscorp made a decision as to where to  
6 set that number, but it was within its discretion  
7 where to set it, between one and 20?

8 MR. O'BEIRNE: Objection. Compound and  
9 outside the scope of the topics for this witness.  
10 And calls for speculation.

11 THE WITNESS: Do I still answer if it's  
12 outside the scope.

13 MR. O'BEIRNE: You can answer -- if you  
14 know it as your personal capacity.

15 THE WITNESS: Correct.

16 BY MR. BROPHY:

17 Q In what circumstance, that hypothetical  
18 subscriber would call into Rightscorp and Rightscorp  
19 could demand one payment for the one notice it sent  
20 for \$30 and then the other circumstance that  
21 subscriber would call in and Rightscorp would demand  
22 \$30 for all 20 of the notices. So \$600. Correct?

23 MR. O'BEIRNE: Objection. Compound  
24 hypothetical. Calls for speculation. Outside the  
25 scope.

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1                   THE WITNESS: Right. I wouldn't be able to  
2 speak to the scenario of the paying because you'd  
3 have to see what happens.

4 BY MR. BROPHY:

5                   Q Suffice to say in one scenario a subscriber  
6 would be calling in with a single notice that it  
7 needed to resolve, and, in the other notice, they  
8 would be calling in with many more notices that they  
9 need to resolve?

10                  MR. O'BEIRNE: Same objections.

11                  THE WITNESS: Correct.

12 BY MR. BROPHY:

13                  Q How long does Rightscorp keep the personal  
14 information of an individual who either called in or  
15 connected to the website to pay on a notice?

16                  MR. O'BEIRNE: Objection. Compound and  
17 assumes -- misstates testimony and misstates facts  
18 not in the record.

19                  THE WITNESS: I'm not sure.

20 BY MR. BROPHY:

21                  Q Are you aware of them ever deleting any  
22 personal information stored for a subscriber who  
23 calls in to pay?

24                  MR. O'BEIRNE: Same objections. Vague.  
25 Calls for speculation.

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1                   And no ISP has ever challenged that  
2 information. From the inception of the company to  
3 today, we've never heard once from an ISP that we  
4 were wrong in a notice that we sent. And I don't  
5 believe we ever were wrong.

6 BY MR. BROPHY:

7                   Q     Does Rightscorp know the actual register  
8 number of the copyrights that it is asserting on  
9 behalf of its clients?

10                  MR. O'BEIRNE: Objection. Vague.

11                  THE WITNESS: If it's provided to us by the  
12 copyright owner.

13 BY MR. BROPHY:

14                  Q     Does that Rightscorp pass that register  
15 number to that the ISP?

16                  MR. O'BEIRNE: Same objection.

17                  THE WITNESS: No.

18 BY MR. BROPHY:

19                  Q     Why not?

20                  MR. O'BEIRNE: Same.

21                  THE WITNESS: There's no requirement on  
22 what our notice needs to say.

23 BY MR. BROPHY:

24                  Q     Does Rightscorp have the exact name of the  
25 artist and song title as that work is registered

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1 with the copyright office?

2 MR. O'BEIRNE: Objection. Vague and  
3 outside the scope. Lack of foundation.

4 THE WITNESS: It would just depend on the  
5 copyright that we're monitoring.

6 BY MR. BROPHY:

7 Q Does Rightscorp have that information for  
8 any of the copyright that it monitors?

9 MR. O'BEIRNE: Same objection. Vague.  
10 Outside the scope. Calls for speculation.

11 THE WITNESS: I'm not sure.

12 BY MR. BROPHY:

13 Q So you don't know whether Rightscorp has  
14 the actual name of the song or artist for the  
15 copyright that it's enforcing on behalf of its  
16 clients?

17 MR. O'BEIRNE: Objection. Mischaracterizes  
18 testimony.

19 THE WITNESS: We have 3 million copyrights  
20 that we represent and I haven't verified all of  
21 them.

22 BY MR. BROPHY:

23 Q Is it your understanding that Rightscorp  
24 has accurate song and artist information on at least  
25 some of the copyright that it monitors for its

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1 MR. O'BEIRNE: Same objections.

2 (Exhibit 12 was marked for identification  
3 by the certified shorthand reporter.)

4 BY MR. BROPHY:

5 Q I'll hand you what's been marked as  
6 Exhibit 12. This is a document bearing Bates number  
7 RIAA 49813 entitled Rightscorp October 2016 through  
8 March 2018. Do you see that?

9 A Yes.

10 Q And have you seen this document before?

11 A No.

12 Q Do you know what this information relates  
13 to?

14 MR. O'BEIRNE: Objection. Scope.

15 Foundation.

16 THE WITNESS: It looks like it's out of our  
17 bank statement maybe.

18 BY MR. BROPHY:

19 Q Are these payments made by RIAA to  
20 Rightscorp?

21 MR. O'BEIRNE: Objection. Foundation.

22 THE WITNESS: Yeah. They look -- that's  
23 what it looks like.

24 BY MR. BROPHY:

25 Q And it totals just shy of \$700,000; is that

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1 correct?

2 A Yes.

3 Q And that's the money that Rightscorp has  
4 been paid to participate in this litigation; is that  
5 correct?

6 MR. O'BEIRNE: Objection. Vague.

7 Mischaracterizes testimony.

8 THE WITNESS: Yes.

9 What time is it?

10 MR. BROPHY: It's a quarter until. Going  
11 fast. I'm sorry.

12 (Exhibit 13 was marked for identification  
13 by the certified shorthand reporter.)

14 BY MR. BROPHY:

15 Q So Mr. Sabec, I'm going to hand you what's  
16 been marked as Exhibit 13. We'll get you the  
17 Bates number in just one moment.

18 MR. BROPHY: This document has Bates number  
19 Rightscorp 000054 -- excuse me -- 5242. Once again,  
20 00005242.

21 Q Have you seen this document before?

22 MR. O'BEIRNE: Can I just note before he  
23 answers the question. I just note for the record,  
24 this is 13 right?

25 MR. BROPHY: Correct.